

REGISTER OF CLASSIFICATION DECISIONS

Date of entry in Register: 04 October 2000
Name of applicant/court: The Film and Video Labelling Body Inc.
Applicant to the Labelling Body: Siren Entertainment (NZ) Ltd
Title of Publication: Sick The Life & Death Of Bob Flanagan, Supermasochist
Other Known Titles: Sick
Director: Kirby Dick
Producer: Kirby Dick
Publisher: Not Applicable
Author: Not Applicable
Format: Video Recording VHS/PAL
Country of Origin: USA
Language: English

Feature:	Sick The Life & Death Of Bob Flanagan, Supermasochist	Running time:	89.30
Trailers:	Copyright Notice Like It Is Soundscape Advertisement Notice Praise Lulu On The Bridge Pi Gravesend Hard Core Logo Siren Entertainment Notice Classification Notice	Running time:	0.09 1.21 0.33 1.25 1.49 1.30 2.16 1.38 0.17 0.11
		Total Running time:	100.39

Excision/Alteration: No.

Reason(s) for Excision:

Not Applicable.

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Classification Decision:

Objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years.

Display Conditions:

Nil.

Descriptive Note:

Contains graphic content that may offend.

Direction to issue a label has been given on: 04 October 2000

SUMMARY OF THE REASONS FOR DECISION:

This publication is a version of the video recording of the same title classified by the Office of Film and Literature Classification (Classification Office) on 8 July 1997, OFLC No. 9700608. The classification of that video recording was:

Objectionable except if the availability of the publication is used for the purpose of screening at the Twenty-Ninth Auckland International Film Festival, Twenty-Sixth Wellington Film Festival, Twenty-First International Film Festival, Dunedin, Twenty-First International Film Festival, Christchurch, Twenty-First International Film Festival, Palmerston North and the Twentieth International Film Festival, Hamilton;

And;

If the availability of the publication is restricted to persons who have attained the age of 18 years.

In reaching this decision, the Classification Office notes that it has been over three years since this title was last classified. In that time, the Classification Office has received no complaints or evidence of injury from the exhibition of this film elsewhere. In that time, the Court of Appeal has also issued its decision in *Living Word Distributors v Human Rights Action Group (Wellington)* (unreported, CA 58/00). The Court stated at para. 40:

... the balancing required by s3 must be infused by due consideration of the application of the Bill of Rights. The inquiry is whether the depiction in the videos of a qualifying subject matter (such as sex) is in such a manner that the availability of the publication is likely to be injurious to the public good. At that

point s14 [the freedom of expression] must be given full weight in the application of s3(1) ...

The subject matter of *Sick* is a “matter such as sex” within the terms of s. 3(1). The video recording’s portrayal of masochism is conveyed in a serious quasi-documentary style that tends to minimise likely injury to the public good. As the Court of Appeal stated, “Parliament could never have intended that a simple test of ‘injurious to the public good’ could be used to ban discussion of any subject.” (para. 30). The Classification Office therefore finds that the availability of this video to adults is not likely to be “injurious to the public good” as properly construed in light of the Bill of Rights Act.

OFLC Ref: 1851